

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 86-12056

Priority: March 01, 2019

Maximum Diversion Volume: 4.5 AF

This is to certify that

WAYNE O OLESEN 1011 WALLY RD TROY ID 83871-9624

has applied for a permit to appropriate water from:

Source : UNNAMED STREAM

Tributary: DRY CREEK

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
STOCKWATER STORAGE	01/01 to 12/31		0.4 AF
STOCKWATER FROM STORAGE	01/01 to 12/31		0.4 AF
WILDLIFE STORAGE	01/01 to 12/31		4.1 AF

Location of Point(s) of Diversion

UNNAMED STREAM NW¼, NW¼, Sec. 35, Twp 40N, Rge 03W, B.M., LATAH County

UNNAMED STREAM NW¼, NW¼, Sec. 35, Twp 40N, Rge 03W, B.M., LATAH County

Place of Use: STOCKWATER STORAGE, STOCKWATER FROM STORAGE, and WILDLIFE STORAGE

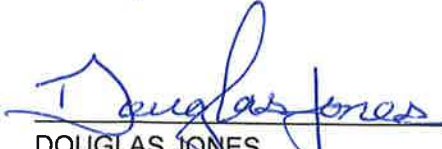
Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
40N	03W	35					X	X												

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2021**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
5. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
6. Stockwater use is for 30 range cattle.
7. Right 86-12056 authorizes the storage of an annual total of 4.5 Acre Feet (AF), comprised of 1.31 AF to be used for the initial filling or carryover storage of the reservoir, 2.7 AF for the replacement of losses due to seepage and evaporation, and up to 0.4 AF for additional refills for Stockwater From Storage use.
8. The reservoir established by the storage of water under this right shall not exceed a total capacity of 1.31 AF or a total surface area of 0.321 acres.

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 23rd day of March, 2019.


DOUGLAS JONES
Northern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

86-12056

This map depicts the STOCKWATER STORAGE, STOCKWATER FROM STORAGE, and WILDLIFE STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  PLS Sections
-  Quarter Quarters
-  Taxlots

0 0.0125 0.025 0.05 Miles



Tax parcel information provided by Latah County.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

May 23, 2019

WAYNE O OLESEN
1011 WALLY RD
TROY ID 83871-9624

RE: Permit No. 86-12056

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

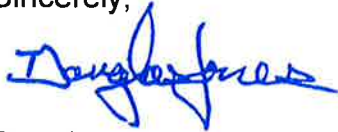
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Douglas Jones
Northern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2019, I served a true and correct copy of Permit to Appropriate Water No. 86-12056 by U.S. Mail, postage prepaid, to the following:

WAYNE O OLESEN (Current Owner)
1011 WALLY RD
TROY ID 83871-9624

USDA NRCS (Representative)
1843 S MOUNTAIN VIEW RD
MOSCOW ID 83843



Tammy Alleman
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

NEWS REVIEW PUBLISHING COMPANY

The Moscow-Pullman Daily News

P.O.Box 957

Lewiston, Idaho 83501

(208) 743-9411

Date:

03/28/2019

INVOICE NO.

150523

Account No.

30010311

Description

150523 The foll

Times

2

Lines

43

Tab. lines

\$ 125.78

**LEGAL ADVERTISING
INVOICE**

Sold To: IDAHO DEPT/ WATER RESOURCES
7600 N. MINERAL DR STE 100
COEUR D ALENE ID 83814

PO#

NOTICE: This is a invoice of Purchase made by you. Statement will be rendered the first of the month
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

The following application has been filed to appropriate the
public waters of the State of Idaho:

86-12056

WAYNE O OLESEN

1011 WALLY RD

TROY, ID 83871-9624

Point of Diversion NWNW

S35 T40N R03W

LATAH County

Source UNNAMED STREAM

Tributary DRY CREEK

Point of Diversion NWNW

S35 T40N R03W

LATAH County

Source UNNAMED STREAM

Tributary DRY CREEK

Use: STOCKWATER FROM STORAGE

01/01 to 12/31 0.4 AF

Use: STOCKWATER STORAGE

01/01 to 12/31 0.4 AF

Use: WILDLIFE STORAGE

01/01 to 12/31 4.1 AF

Total Diversion: 4.5 AF

Date Filed: 3/1/2019

Place Of Use: WILDLIFE STORAGE

T40N R03W S35 NENW NWNW

Place Of Use: STOCKWATER STORAGE

T40N R03W S35 NENW NWNW

Place Of Use: STOCKWATER FROM STORAGE

T40N R03W S35 NENW NWNW

Permits will be subject to all prior water rights. For additional
information concerning the property location, contact North-
ern Region office at (208) 762-2800. Protests may be submit-
ted based on the criteria of Idaho Code § 42-203A. Any protest
against the approval of this application must be filed with the
Director, Dept. of Water Resources, Northern Region, 7600
N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763
together with a protest fee of \$25.00 for each application on or
before 4/8/2019. The protestant must also send a copy of the
protest to the applicant.

GARY SPACKMAN, Director

Published on 3/21/2019
and 3/28/2019

AFFIDAVIT OF PUBLICATION

Julie L. Winters, Legal Clerk
being first duly sworn, on oath deposes
and says: I am the printer of
Moscow-Pullman Daily News, a newspaper
of general circulation, published daily
except Sunday at Moscow, Latah County,
Idaho, in compliance with Sections 60-106,
60-107, and 60-108 of the Idaho Code and the
amendments thereto; and an official newspaper
for Whitman County, Washington as required
by R.C.W. 36.72.071 and other provisions of
the Revised Code of Washington and the
amendments thereto: that the notice of which the
annexed is a full, true and correct printed
copy was published in the regular and entire
issues of said newspaper and not in a
supplement thereto, upon the following dates:

March 21st & 28th 2019

the same being the date designated for
the publication of said notice.

Julie L. Winters

On this 28th day of Mar
in the year of 2019, before me, a Notary Public,
personally appeared Julie L. Winters,
known or identified to me to be the person
whose name subscribed to the within instrument,
and being by me first duly sworn, declared that
the statements therein are true, and acknowledged
to me that he executed the same.

Cheri Whitty
Notary Public for Idaho,
Residing at Lewiston, Idaho
My Commission Expires 4/17/21



RECEIVED

APR 01 2019

IDWR / NORTH



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED
MAR 14 2019
IDWR / NORTH

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

Governor Brad Little
Director John H. Tippetts

March 13, 2019

Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

Subject: Water Right Application #86-12056

Dear Mr. Frederick:

DEQ has received a request for comment on the approval of a water right application to withdraw 4.5 acre feet from two unnamed tributaries to Dry Creek. The applicant intends to construct an in stream storage pond for wildlife and stock water. The pond will include a ramp for livestock access. The withdrawals will occur from December 31 through January 1.

The drainages are unnamed tributaries to Dry Creek, which is intermittent, and are located in Township 40N, Range 03W, Section 35. Dry Creek is in assessment unit ID17060306CL059_02. This assessment unit is listed in Category 3 of Idaho's 2014 Integrated Report as unassessed for the beneficial uses of cold water aquatic life and contact recreation. Dry Creek is a tributary to Big Bear Creek then the Potlatch River.

Provided all federal, state, and local permits have been obtained, regulations met, and reviews completed, we can offer the following comments.

At no time should the proposed action be allowed to impair beneficial uses when stream flow is adequate to sustain existing aquatic life. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals. In order to protect and maintain aquatic life beneficial uses, stream flow adequate to sustain existing aquatic life needs to be maintained (IDAPA 58.01.02.100.01).

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please contact me at (208) 983-0808, or by email at daniel.stewart@deq.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Stewart".

Daniel D. Stewart
Water Quality Analyst

c: Wayne O. Olesen, Troy, Idaho
Chris Johnson, USDA-NRCS
Sujata Connell, DEQ